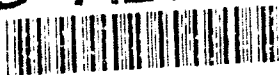


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**RESHAPING THE MILITARY ROLE
IN THE DRUG WAR**

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BY

LIEUTENANT COLONEL STEPHEN J. CURRY
United States Army

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The United States has been waging a war on the spread of illegal drugs based on a national strategy that seeks to interrupt the production base in foreign countries, to interdict the transportation of drugs between the source countries and the United States, and to eliminate the availability of these drugs in American communities. Congressional legislation mandated an increased level of participation for the military in all three phases of the strategy, and the Defense Department has complied. Notwithstanding the additional application of the vast resources and enhanced capabilities of the military over the past four years, the availability and costs of illegal drugs on American streets remain relatively unchanged. This study examines the application of military resources to the three phases of the national strategy, highlights the problems associated with each phase, and suggests that the mere application of military power to stop the flow of illegal drugs has limited potential for success. It further concludes that the national strategy must be reevaluated, placing a higher priority of emphasis on the demand reduction side of the issue, and that the military role supporting the new strategy must be reshaped as well.

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RESHAPING THE MILITARY ROLE IN THE DRUG WAR

AN INDIVIDUAL STUDY PROJECT

by

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INTRODUCTION

Since the Reagan-Bush presidential administrations, the federal government has been waging what has become known as the "War on Drugs". This immense national effort was generated in response to the realization that the continued incidence of drug use, both habitual and recreational, by Americans was troublesome and, if left unchecked, would eventually constitute a serious threat to the social and moral fabric of American society. It was also believed that the extent and nature of the violent crime on American streets and in American neighborhoods constituted a serious and long overlooked threat to the internal security of the country. In addition, the degradation of productivity in the workforce brought about by this phenomenon would surely affect America's ability to succeed in the highly competitive global marketplace.

Although numerous federal, state, and local law enforcement agencies had been waging their own battles against the drug trade for several years prior, it was not until 1989 that a recognizable National Drug Control Strategy began to unite and integrate the efforts of the numerous civilian law enforcement agencies (CLEA) tasked by law to fight the spread of illegal drugs in one way or another.¹ This new strategy also contained significant implications for the military and its heretofore relatively silent participation in the drug war.

Prior to 1989, the military participation in the drug war had been relatively passive, relegated to one of supporting

primarily civilian efforts. Military leadership had remained out of the forefront of the drug war chiefly as a result of the statutory restraints of the Posse Comitatus Act of 1878. This 100-year old legislation specifically precluded, under penalty of fine and imprisonment, any military leader from allowing military personnel to be engaged in the enforcement of civilian law against citizens of the United States.² In 1981, however, the Posse Comitatus Act was amended by Congress to allow the military to loan equipment and facilities to law enforcement agencies, operate equipment to monitor and communicate movement of air and sea traffic, and to participate in interdiction activities if a declaration of emergency had been made. Absent this declaration, however, the military is still precluded from conducting searches, seizures, and apprehensions on its own.³ The additional concern expressed by the military in relation to the drug war was that it was a predominantly police action, and would detract substantially from the military's readiness to perform its primary mission to conduct war.

Those concerns notwithstanding, Congress acted in the National Defense Authorization Act of 1989 by assigning to the Department of Defense the primary counternarcotics mission of serving as the lead agency of the federal government for the detection and monitoring of aerial and maritime transit illegal drugs into the United States.⁴ Subsequently, President Bush's National Drug Control Strategies and the implementation policies of the Department of Defense have greatly increased the level of

military participation in the drug interdiction effort at each phase of distribution - in the source countries, while in transit to the United States, and inside the United States itself.⁵

As a result of the legislative initiative and the guidance given to the Department of Defense, the appropriations dedicated to the military participation in the Drug War have increased substantially from \$450 million in 1990 to approximately \$1.2 billion in 1992.⁶ Even with the immensely increased military requirements associated with Operations Just Cause and Desert Shield/Storm, the total commitment of military equipment in terms of operational tempo (flight hours and steaming days) dedicated to drug interdiction grew by approximately 150% between 1989 and 1991.⁷

Despite all of this high level dedication and emphasis, the problem of illegal drug use persists, and some assert that, with very few isolated exceptions, the addition of the military to the supply reduction side of the mission has had no appreciable and beneficial effect on the overall effort, partly because of the difficulty in measuring its value.⁸ This is a particularly disturbing opinion given the incredible levels of time, funding, and effort being applied to the problem. Nevertheless, the facts remain that the availability and market value of illegal drugs in American communities have not shown an appreciable change for the better after nearly four years of concentrated effort.⁹

SO WHAT IS THE SOLUTION? Why does such a significant level of applied effort yield such unimpressive results? Is the

strategy flawed? Are the methods for measuring results ambiguous or irrelevant? Are our federal agencies devoting too much effort in the wrong direction? Some sources contend that the basic problem is that the comparative levels of effort applied to the supply reduction side of the problem versus the demand reduction side are out of balance, with nearly 70 percent dedicated to supply and only 30 percent aimed at demand.¹⁰

This paper examines the military support to the drug war in all three interdiction phases and suggests that its potential effectiveness is limited at best. The inevitable conclusion is that, given this limited potential, the national strategy must be reexamined and readjusted to place a higher level of emphasis and effort on the DEMAND REDUCTION side of the war if we truly expect to win. Likewise, the military role in the drug war must be reshaped to conform to the lower level of supply reduction emphasis in the new national strategy.

DRUGS AT THE SOURCE

From its inception in 1989, the National Drug Control Strategy and Secretary Cheney's Implementation Guidance has identified the world's principal cocaine producing countries in the Andean Ridge, specifically Colombia, Bolivia, and Peru, as the first line of defense in the effort to interrupt the flow of illegal drugs from this area into the United States.¹¹ This phase of the interdiction concept was initially solidified during

the presidential summit between President Bush and the Andean presidents at Cartagena, Colombia, in February 1989.¹² As a result of their conceptual agreement with President Bush, the United States has increased its military assistance to the military organizations of these nations from less than \$5 million in 1988, to more than \$140 million in 1990.¹³ This military assistance has been in the form of U.S. military mobile training teams, logistics and communications equipment and planning support, medical and air/river mobility equipment and training, and augmentation to the U.S. embassies and country teams.¹⁴ The purpose of this large infusion of military expertise and support has been to provide training to the host-country police, paramilitary, and conventional military organizations in the tactics, techniques, and procedures for combatting the drug trade within their own countries. This presumes, of course, that there are genuine institutional goals and motivation within these governments, police and military units to deal effectively with a problem that places them in direct confrontation with their relatively destitute indigenous populations.

Without a significant and genuine level of popular support for external American support, there are economic, political and social factors and influences in effect in the Andean countries which argue against the potential for success in this phase.

The first, and most important, factor is economic. During the past decade, Bolivia, Peru, and Colombia have struggled to reduce the incredible weight of foreign debt as a basic precursor

to attracting more foreign investment and diversifying their fragile economies. In order to accomplish this, they have had to open up their markets to foreign competition and to reduce governmental expenditures to improve the debt posture. This has thrown thousands of people off the employment roles of previously state-owned factories. As a means of survival, thousands of these very same people have reverted to the growing of coca in order to feed their families. It is estimated in Bolivia, for example, that approximately 20 percent of the national workforce is now employed, in some form or another, with the cultivation, processing, or transportation of coca.¹⁵ It is also estimated that the nearly \$600 million put back into the Bolivian economy by the illegal coca trade can go a long way toward its economic revitalization while at the same time avoiding the destabilizing political effect of large scale unemployment.¹⁶ The pressure to reap the benefit of the prolific coca trade is clearly reflected in the doubling of the amount of coca leaving Bolivia since 1989.¹⁷ The situation in Peru is very similar, with nearly \$1 billion annually in coca exports and approximately 15 percent of the workforce tied to the coca trade.¹⁸ Although Colombia's economy and government are more stable and resilient, the lucrative drug trade has not abated noticeably as a result of its governments efforts to combat the Drug Cartels, but the mere semblance of effort will net the Colombian government nearly \$80 million in aid in 1992.¹⁹ At the same time, the estimates are that Colombia's annual traffic will range between 500 and 700

tons of cocaine to be exported to the U.S. and Europe.²⁰ It is not hard to understand why the counternarcotic efforts in these countries, especially through coca eradication or crop substitution, sometimes appear less than enthusiastic given the potential harm which would come to their economies if they become too successful at a pace too fast for the populations to adjust.

The second major factor at work against the producing countries' success in reducing coca production is political in nature. In Colombia and Peru, the governments are involved in counterinsurgency struggles against well entrenched leftist insurgency movements which divert significant government attention away from the domestic drug trade. In the case of Peru, the Shining Path, operating in the coca rich Upper Hualaga Valley, control large areas of the countryside, including most towns and villages.²¹ The guerrillas present themselves as the protectors of the populace against the government who would take away their only means of livelihood. They also act as intermediaries between the growers and the drug traffickers, ensuring, of course, that the insurgency movement is well financed as a result of their protection and brokerage.²² In comparison to the drug cultivation and trafficking problem, these insurgencies constitute a much graver threat to the basic survival of the governments in the long run, and therefore demand and receive a much greater degree of political will and attention than does the American-sponsored anti-drug effort. In Colombia, for example, U.S. Congressional investigators learned that over

95 percent of the American military aid for 1990 intended for counternarcotics operations would actually be spent on the counterinsurgency effort.²³

The third factor involved in the lack of significant success in this phase of the war is socio-cultural. In the Andean Ridge the militaries have long been powerful players in the societies, even holding governing power themselves at times. Corruption throughout, however, has been the institutional and cultural norm during these periods. Some suggest, for example, that the military regimes of the 1970's actually supported and, in turn, were financed by the blossoming narcotics production and trafficking industries.²⁴ Without a strong connection to the populations as a base of political support, human rights abuses prevailed as a means of maintaining control. The advent of democratic regimes has not lessened the degrees of corruption and human rights abuses involving the military, especially as they have been forced to deal with the insurgencies and counternarcotics programs simultaneously. In fact, as noted during the second Andean summit in San Antonio, the Andean countries are beginning to openly resist the ever-increasing U.S. emphasis on the militarization of the anti-drug effort in their countries as a prerequisite to receiving aid.²⁵ The implied argument is that the populations in their countries will continue to grow the lucrative coca crop as long as there is a continuing high demand and there are no equally profitable incentives for them to substitute other crops.

In the final analysis, the Andean governments are confronted with a prospect of continuing to receive additional American aid to further militarize the anti-drug war at the cost of further damage to their governments in terms of increased violence, higher incidences of human rights abuses, and widespread corruption undermining their military and civilian institutions. This would appear to be an incredibly unfair price to pay in order to solve a problem whose real cause is not in the towns, villages, and mountains of Colombia, Bolivia, and Peru, but in the streets and neighborhoods of the United States.

DRUGS IN TRANSIT

The second line of defense in the President's drug supply interdiction effort is to attack the flow of drugs while they are being transported from the source countries to and across the borders of the United States. In fact the National Defense Authorization Act of 1989 specifically identified this particular mission as the one in which the Department of Defense would play a leadership role in detection and monitoring air and maritime transit of illegal drugs for the federal government.²⁶

Although the military possesses many capabilities that would indeed enhance this phase of the interdiction effort, there are some significant considerations which should not be ignored. The first consideration is purely one of scale. It has been estimated that in 1991 alone approximately 100 million vehicles,

348 million people, 8 million containers, 142,000 commercial flights, 160,000 private flights and 140,000 private maritime vessels entered the United States for either recreational travel or commercial purposes. These numbers only reflect the legitimate, non-drug related traffic.²⁷ Given this volume of traffic crossing our borders annually, it is not difficult to visualize how drug traffickers can be so successful by either integrating their relatively small and illegal cargoes with the enormous amounts of legal shipments or by simply evading detection by clandestine operations. Which leads to the second consideration of flexibility. In a contest over access through the borders of the United States, the illegal drug smuggler enjoys two distinct advantages, the first of which is funding. The immense profits generated from even the smaller successful transshipments of drugs are sufficient enough to more than cover the costs for the product itself, replacement of losses due to detection or abandonment, and to finance the development of even more ingenious methods of illegal shipment. By contrast, the federal agencies, including the Department of Defense, involved in detection and interdiction of this smuggling will continuously be limited by legislative funding constraints, extremely slow and unresponsive procurement procedures and large, overburdened bureaucracies.²⁸ The second major advantage in favor of the illegal drug smuggler is that while he operates with no recognizable code of operational rules and procedures, his federal adversaries have many and are bound by statute to follow

them. The most obvious of these with respect to the military is the Posse Comitatus Act discussed earlier. It is against this backdrop that we examine the military contribution to the drug interdiction effort during the transit phase.

In its more visible role as the lead agency for detection and monitoring of illegal drugs in transit to the United States, the Department of Defense further assigned the mission given by Congress to three distinct subordinate commanders and further aligned their responsibilities by geographical boundaries. The Pacific Command is responsible for the mission throughout the Pacific Ocean and along the West Coast of the United States; the Atlantic Command is responsible for the mission throughout the Atlantic Ocean, the Caribbean Sea, and along the East Coast of the United States; and the Forces Command is responsible for the mission along the land border with Mexico. Each command has established a Joint Task Force Headquarters in its area of responsibility to execute the mission, with JTF-5 at Oakland, California, JTF-4 at Key West, Florida, and JTF-6 at Fort Bliss, Texas, respectively.²⁹ These JTF Headquarters serve as the focal points for both military and civilian drug enforcement agencies for coordination of intelligence collection and analysis, information dissemination, equipment and personnel support, and prioritization of effort. Military support in the form of equipment and personnel comes from active duty forces, reserve forces, and federalized National Guard.³⁰

While the transshipment of illegal drugs into the United

States by aircraft is certainly the most expensive option, it affords the smuggler the advantage of speed, which directly translates to minimizing the amount of time that the shipment is exposed to detection means. The sophisticated radar surveillance equipment that the military employs against illegal air traffic is certainly capable of detecting an illegal flight, but the technological advantage ends there. Based on accepted rules of engagement, military pilots cannot engage these aircraft and must therefore follow them to a point inside the United States where civilian authorities can effect the apprehension. Without a sufficient quantity of interception assets to complete the seizure and apprehension phases of the mission, the civilian agencies can not take full advantage of the military detection, and the use of an extremely expensive military asset becomes cost ineffective.³¹ Added to this problem is the fact that not all airplanes flying uncharacteristic routes or without responsive communications capabilities are necessarily illegal drug smugglers. Many are just lost pilots or simply pilots flying airplanes with equipment malfunctions.³² This, of course, is the primary argument against any expected adjustment in the rules of engagement after detection. Unfortunately, the smuggler intent on successfully moving his shipment is equally aware of this problem and turns it to his advantage, developing several tactics, such as late changes to flight plans or simply jettisoning cargo, to evade detection and apprehension.

In an effort to increase the risk of detection to air

smugglers, the Department of Defense has been tasked to complete the installation of a series of land-based aerostat balloons which carry and operate surveillance radar at specifically designated locations primarily along the southwest border.³³ These aerostats have the capability to detect low-flying aircraft along the border in non-conventional flight areas out to a distance of approximately 170 miles.³⁴ Unfortunately, the aerostat is especially susceptible to extreme weather as is likely to occur along the border, and the resultant non-operational time has become a cause for concern in terms of cost-effectiveness.³⁵

The defense against illegal drug smuggling on land routes across the southwest border has also proven to be an overwhelming task. By its sheer length of approximately 2,000 miles, this border presents a problem that has frustrated immigration authorities for decades, and continues to frustrate the interdiction effort as well. Again, the considerations of scale and legal restraints prevail. Along the New Mexico border, for example, the number of U.S. Border Patrol personnel is about the same as the number of law enforcement officers covering the New York City subway system.³⁶ The military has attempted to mitigate this shortage of coverage by conducting training and surveillance missions along the border, thereby denying terrain to illegal drug operations, and freeing up civilian law enforcement personnel to cover the most trafficked routes or dedicate more assets to actual interdiction and apprehension.³⁷

The overall coverage of military operations, however, will continue to be limited because nearly 80 percent of the land along the border is privately owned land. While civilian authorities may enter this land without the owners permission, the Posse Comitatus statute precludes the military from doing likewise.³⁸ Military operations along the border have been confined chiefly to federal property. Some success has been noted, however, where surveillance and patrolling operations in remote, mountainous regions have forced smugglers out of their traditional patterns into areas that are more accessible to Border Patrol coverage.³⁹ An additional benefit of military operations along the southwest border has been the upgrading of the border roads and fencing by military engineer units, thereby enhancing the mobility, safety, and responsiveness of Border Patrol personnel.⁴⁰

Transshipment over maritime routes has long been a method of moving large volumes of illegal drugs concealed in legitimate bulk or containerized cargoes. The disadvantage to the smuggler, however, is that it is a time consuming operation and by that passage of time the potential for detection increases substantially. This is counterbalanced by the resultant huge profits gained should even a small percentage of the immense volume be delivered into the distribution system in the United States.⁴¹ Military operations against maritime drug shipping consist of air and sea-based surveillance of maritime shipping lanes by Navy and Coast Guard ships.⁴² They operate, however,

under the same disadvantages and limitations that affect the air and land-based interdiction efforts. As a sub-organization of the Department of Transportation, the Coast Guard constitutes the only legal law enforcement authority in maritime operations and, therefore, only they are free of the Posse Comitatus restraints concerning search, seizure, and apprehension.⁴³ This necessarily creates a very inefficient overlap of maritime assets to deal with a single target. In addition, once a target has been confirmed, searched, and seized, the responding vessel must be taken off station to transport the smuggling vessel and personnel to port for criminal processing. This reduces coverage of the vast expanse of open seas until the enforcement ship returns.⁴⁴ This can be a very frustrating situation from the viewpoint of the military attempting to enhance total coverage of the area. As in the other means of shipment, the flow will follow the path of least resistance.

DRUGS IN COUNTRY

The third and final line of defense against the flow of illegal drugs into the United States is inside the country itself. The nature of military support to the domestic counter-narcotics effort must be very carefully crafted and monitored. Since at this phase the illegal drugs are presumably in the possession of American citizens, the participation of military personnel in the interdiction role is heavily scrutinized in terms of conflict with the statutory restraints of the Posse

Comitatus Act.

The military support to federal, state, and local law enforcement agencies is found predominantly in the areas of unique equipment support, training for civilian law enforcement officers in military-related skills, and operations conducted by National Guard volunteers activated in State active duty status. This support is provided principally in response to state plans which are drafted by each state, submitted to the Justice Department for legal clearance, and approved by the Department of Defense for federal funding.

The employment of the National Guard in the domestic interdiction role is an important concept. Until federalized by the President, National Guard personnel remain an exclusive asset of the Governor of a particular state, and, as such, can and do constitute an important part of that state's counter-narcotics effort.⁴⁵ With Guard augmentation, the Customs Service has increased its ability to screen containerized cargo in suspect shipments at ports in coastal states.⁴⁶ Federal, state, and local law enforcement counternarcotics task forces have benefitted substantially from Guard augmentation, especially in the area of intelligence analysis and correlation.⁴⁷

The obvious benefits of using National Guard volunteers in the domestic interdiction campaign are counterbalanced, however, by some not so obvious limitations. First, although National Guard members activated in a State status are technically not subject to the strict legal interpretations of the Posse

Comitatus Act, they are not immune to litigation under the Federal Tort Claims Act. For this reason, the National Guard Bureau maintains a policy that no Guard members may act as law enforcement officers with the authority to search, seize, or arrest.⁴⁸ And secondly, since these Guard members are employed on a volunteer basis, their availability for employment can be sporadic, without regard for which missions their background and military training and experience are most applicable.⁴⁹

And finally, as clandestine domestic production of both organic and synthetic illegal drugs have become increasingly an art form, the long-run effectiveness of military augmentation for civilian search and eradication operations will certainly become questionable at best.⁵⁰

CONCLUSIONS

For the past four years at the national strategy and policy-making level of the drug enforcement business there has been a decidedly supply-side reduction emphasis which has poured enormous amounts of funding and effort into the reduction of the flow of illegal drugs into and within the United States. At the same time an unheard minority have argued that there is a noticeable imbalance between the supply-based interdiction war and the demand-based rehabilitation and education programs aimed at the our persistent population of American addicts and

impressionable younger citizens. While most agree that a purely demand-based strategy would not be any more successful than the current strategy, most do agree that a better balance must be achieved before any level of success can be claimed.⁵¹

The "forces of change" have convinced the American public that the most urgent of the nation's perceived ills are unemployment, poverty, poor education and health care, and diminishing levels of productivity and competitiveness. These ills are also what most agree are due in part to the predictable consequences of a drug permissive culture. As the new presidential administration focuses its attention on these domestic internal problems, there should be every expectation that the same "forces of change" will demand a reexamination of the national drug war strategy and objectives. This reexamination will surely focus a critical eye on the obvious lack of measurable results achieved thus far. This process will undoubtedly lead to the conclusion that the strategy be revised and that the primary emphasis be shifted to a heavier demand reduction effort. The shift in resources to this demand-based effort will certainly mean a smaller percentage of resources for the Department of Defense.

During this inevitable policy and strategy review process, the military leadership must take the opportunity to reshape its role in the drug war to conform to its smaller level of resourcing. The Defense leadership should argue that the Andean strategy is not cost effective and could even be

counterproductive to the stability of the fragile regimes they are intended to support. The appearance of U.S. equipped and supported foreign militaries burning crop fields in economically destitute countries promotes anti-American sentiment regardless of the purpose. At most, the United States should be prepared to provide purely economic aid and incentives contingent on verifiable alternative crop substitution programs and demonstrated compliance with international human rights standards. This policy toward the source countries should be controlled and managed exclusively by the Department of State.

Secondly, domestic drug interdiction and eradication programs conducted by federal, state, and local law enforcement agencies in coordination with the state governors and National Guards have shown potential for success, but they are civilian administered programs for the purpose of enforcing civilian laws and dealing with U.S. citizens. At the national level, these programs should fall within the approval authority and direction of the Department of Justice since they entail domestic law enforcement.

The third, and most important, argument that must be made is that the Department of Defense should be designated as the single command and control agency for coordinating and directing the interdiction campaign against illegal drug traffic entering the United States. This mission is the one mission for which there is already documented and legislated Congressional emphasis and support. In addition to complying with the Congressional

mandate, aggressive pursuit of this mission will continue to demonstrate in a visible manner to the drug producing countries and organizations the nation's will to stop the influx of illegal drugs across our borders. It is also the one mission for which the military possesses the appropriate and unique detection, surveillance, and communications capabilities. The difference in the potential for success, however, must be the ability to direct and control legally acceptable enforcement personnel through the search, seizure, and apprehension phases. This will require an adjustment to the Posse Comitatus legislation which permits the military to direct civilian law enforcement officials through the final apprehension phase based on a command and control arrangement (similar to operational control) for a particular time period or operation. This does not imply a lesser role for the civilian law enforcement agencies in the interdiction battle. What it will address is the absolute necessity for a single agency to be in total command of all available assets in order to bring the operation to successful completion.

Even in the demand reduction side of the new strategy, the military has a contribution to make. In this regard, the pilot programs of the New Mexico and New York National Guards are clear examples of military involvement in the demand reduction effort. In these programs, Guardsmen participate actively in community based educational programs designed to reach school age children and to provide wholesome role models for them to emulate.⁵² There is absolutely no reason why these programs are not

aggressively supported by active, reserve, and Guard personnel in every community where they are present. The popular support enjoyed by the military during recent conflicts is a significant measure of the esteem and admiration with which the American military is viewed by the American public.

The military involvement in the drug war thus far has not been the ultimate solution that the American people envisioned in their desire to rid the country of the persistent drug problem. Those close to the war on drugs are finally beginning to understand the need for a balanced approach, and for a steadfast commitment of time, patience, and public will.⁵³ Even the Department of Defense Drug Czar himself recognizes the futility of attempting to measure success only in terms of drug shipments seized or traffickers convicted.⁵⁴ While we certainly have a moral obligation to continue to fight the spread of illegal drug availability, reducing the demand for illegal drugs is the real measure of success and by its nature does not require the application of raw military power alone to achieve success. Unless we recognize the need to balance the national strategy and restructure the military role, we will never win the drug war.

ENDNOTES

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